



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

DA 01-883

April 6, 2001

WIRELESS TELECOMMUNICATIONS BUREAU APPROVES WITHDRAWAL OF APPLICATION FOR REVIEW, PARTIAL OPPOSITION TO APPLICATION, AS AMENDED, AND PETITION FOR RECONSIDERATION

On March 31, 2000, Smoky Hill Cellular of Colorado Limited Partnership (Smoky Hill) and Badlands Cellular of North Dakota Limited Partnership (Badlands) jointly filed an Application for Review of the Commercial Wireless Division's (Division) March 3, 2000 Order, which jointly dismissed Smoky Hill's and Badland's Petitions for Reconsideration for failure to comply with Commission rule section 1.106(b).¹

On October 13, 2000, Smoky Hill filed a "Partial Opposition to Application, as Amended," regarding the September 26, 2000 request of GAP Cellular, L.C. (GAP) to amend its application to construct cellular base stations in Kiowa, Colorado.² On November 3, 2000, Smoky Hill filed a Petition for Reconsideration of the October 10, 2000 decision of the Commercial Wireless Division, Licensing and Technical Analysis Branch (Branch), which granted GAP's request for an extension of time to complete construction of the Kiowa, Colorado cell site.

On November 3, 2000, Smoky Hill filed a Motion to Withdraw Partial Opposition to Application, as Amended, as a result of the October 10, 2000 Branch decision granting GAP's amended applications. On December 12, 2000, Smoky Hill and Badlands jointly filed a Motion for Leave to Withdraw Application for Review, stating that GAP has surrendered its construction authority for the Firstview, Cheyenne and Wibaux, Colorado sites, and therefore the Application for Review is moot with respect to those sites. Smoky Hill and Badlands also state that they no longer desire to pursue the matter regarding GAP's Kiowa, Colorado cell site. Further, on December 12, 2000, Smoky Hill filed a Motion to Withdraw Petition for Reconsideration stating that it no longer desires to pursue the matter regarding the grant of Gap's request for extension of time to construct.

Smoky Hill and Badland state that the referenced motions to withdraw are unilateral and voluntary actions, and are not the result of a settlement agreement with GAP. Accordingly, we hereby grant, without prejudice, the following: 1) Smoky Hill's Motion to Withdraw Partial Opposition to Application, as Amended, filed on November 3, 2000; 2) Smoky Hill's and Badlands's Motion for Leave to Withdraw Application for Review filed December 12, 2000; and 3) Smoky Hill's Motion to Withdraw Petition for Reconsideration filed December 12, 2000.

¹ In re the Applications of GAP Cellular, L.C. for Phase II Unserved Areas, Market No. 352(B), Colorado 5 – Elbert RSA, Station KNKR202, *Order*, DA 00-444 (2000). 47 C.F.R. 1.106(b).

² On October 18, 2000, Smoky Hill filed a "Supplement to Partial Opposition to Application, As Amended."

Action taken by the Chief, Commercial Wireless Division, Wireless Telecommunications Bureau.

For further information, contact Aisha Braveboy at (202) 418-1433, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau.